

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
ALTAGRACIA PEGUERO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 05-10995-RCL
	)	
AMERICAN EXPRESS COMPANY	)	
and HEALTHEXTRAS, INC.,	)	
	)	
Defendants.	)	
_____	)	

DEFENDANT HEALTHEXTRAS, INC.'S  
MOTION TO COMPEL

(Oral Argument Requested)

Pursuant to Rule 37(a) of the Federal Rules of Civil Procedure, defendant HealthExtras, Inc. (“HealthExtras”) hereby moves to compel from the plaintiff, Altagracia Peguero (“Ms. Peguero”), the production of relevant, discoverable documents and answers to interrogatories seeking relevant, discoverable information. All of the information that HealthExtras seeks concerns the December 25, 2002 car accident in which Ms. Peguero lost her right arm – the very event that gives rise to Ms. Peguero’s claims in this case. Ms. Peguero has flatly refused to provide HealthExtras with information about the accident, the circumstances leading up to it, and any statements Ms. Peguero may have made, and claims she may have asserted against others, in the wake of the accident. HealthExtras submits that this information is not only plainly relevant but crucial to its defense, none of is privileged, and the court should order Ms. Peguero to provide it forthwith. Because Ms. Peguero’s refusal to provide this information without court

intervention is unjustified, HealthExtras requests that it be awarded its reasonable expenses incurred in bringing this motion to compel.

The grounds for this motion are set forth in more detail in HealthExtras' accompanying memorandum of law.

REQUEST FOR ORAL ARGUMENT

HealthExtras believes that oral argument of this motion will be of assistance to the court, and respectfully requests the same.

HEALTHEXTRAS, INC.,

By its attorney,

/s/ Donald R. Pinto, Jr.

Donald R. Pinto, Jr., BBO No. 548421  
RACKEMANN, SAWYER & BREWSTER  
One Financial Center  
Boston, Massachusetts 02111  
(617) 542-2300

CERTIFICATE UNDER LOCAL RULES 7.1(A)(2) and 37.1

I hereby certify that I have conferred in good faith in an attempt to resolve or narrow the issues presented by this motion. Two conferences took place between the undersigned, as counsel for defendant HealthExtras, Inc., and Kevin Donius, Esq., as counsel for the plaintiff, Altagracia Peguero. The first conference took place on December 12, 2006 by telephone and lasted approximately ten minutes. The second conference took place on December 29, 2006 by telephone and lasted approximately five minutes. As a result of these conferences, the parties reached agreement on several of the discovery requests in dispute. The requests as to which the parties did not reach agreement, and the nature of the parties' dispute over these requests, are set forth in detail in HealthExtras' accompanying memorandum of law.

\_\_\_\_\_  
/s/ Donald R. Pinto, Jr.

Donald R. Pinto, Jr.

Dated: January 26, 2007

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this date.

\_\_\_\_\_  
/s/ Donald R. Pinto, Jr.

Donald R. Pinto, Jr.

Dated: January 26, 2007